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CONSUMERS BACK PUBLIC MEMBER MAJORITY

--Many would be "more likely" to file complaints

Many Californians want licensing boards composed of public member majorities, a survey of citizens contacting the Medical Board about foot care has shown. More than half would have "more confidence" in boards not dominated by the licensed professions and "be more likely to file a complaint," the Board of Podiatric Medicine (BPM) survey results indicate.

Senator Robert Presley, who initiated physician discipline reform while in the Legislature and is now President of the Medical Board unit licensing doctors of podiatric medicine (DPMs), said the survey supports BPM's proposal to add three laypersons for a public majority (five public, four DPMs). "This will enhance our credibility with our prime constituents--consumers who just want to be sure they're getting a fair review. The profession will still be well represented by the doctors on the Board and by the testimony of our experts and the association," he said.

The Medical Board receives about 200 complaints a year on the state's 1,700 DPMs--which is proportionate to complaints on the larger number of MDs.

Jon H. Williams, DPM, BPM vice president, said, "We'll continue outreach to people who have never called the Medical Board Hotline [1-800-MED-BDCA], but a third of those who have contacted us say they wouldn't do it again. This is a wake-up call boards should not ignore."



Robert Presley, BPM President [center], chairing a recent meeting in the Capitol with Iva Greene, MA, Dr. Williams, Dr. Elaine S. Davis, and Dr. Michael A. DiGiacomo.

Senator Presley said "The consumers give our Medical Board complaint handlers and investigators high marks for courtesy, but the boards themselves leave people wondering. All licensing boards should listen to the Wilson Administration, the Legislative Analyst's Office, the Pew Commission, Citizen Advocacy Center, Center for Public Interest Law, Consumers for Quality Care, and the citizens we represent. They all support public member majorities."

Sunset Schedule: The Joint Legislative Sunset Review Committee will hold hearings on medical and health licensing boards later this year. Hoping to be continued, BPM views the process as an opportunity for self-assessment and re-engineering and to support legislative reforms of the state licensing system. Majority public membership is one of the issues stirring debate. We hope this explanation of the Board's position is helpful. We will appreciate your comments pro and con.

"The law guarantees doctors fair review and due process," said **Michael A. DiGiacomo, DPM**, a consultant to BPM's enforcement program prior to being appointed to the Board. "And the Board will be committed to excellence in carrying out its mission to the public, regardless of its composition."

Senator Presley explained that BPM, in addition to maintaining four doctors on the board, will always use DPMs as its medical consultants, case reviewers, expert witnesses, and examiners.

Public Member Iva Greene, MA added "this is administrative law, not doctor peer review. The Administrative Procedure Act requires licensee and lay members to vote as a jury based on the evidence--the expert testimony--as reported by the judge in the proposed decision. You would not have a jury loaded with doctors in civil malpractice, and the same principles apply to us. It sends the wrong message to both the doctors and the patients."

Elaine S. Davis, DPM, who chaired the meeting two years ago at which the Board voted to seek

a public majority, said "public members are intelligent, fair, supportive of DPMs, and just as competent as jurors and policymakers.

"We need to focus on what our jobs as board members really are. The public needs to be assured we are representing them. They do not have associations and lobbyists and are usually not represented except by us," Davis said.

Williams, author of the public member initiative, said "Boards are not here to represent doctors. That is what associations are for. We are public agencies set up to protect consumers by regulating our licensees. Turf fights between provider groups, no matter how much cloaked as quality issues, undermine board credibility and effectiveness."

"The Legislature gave boards a mission to protect the public and approves our budgets for that and nothing else. Scope-of-practice interpretations are best left to our legal counsel or the Attorney General. Efforts to change those laws should be led by associations, not the state licensing-consumer protection boards," Davis added.

Senator Presley commented "there is no evidence that doctors are stricter on discipline than public members are. If anything, some doctors are sometimes more deliberative even when the judge has summarized the evidence rather starkly."

Williams said the Board's feedback from licensees reflects confidence in BPM. "Our endorsement of the Pew Commission recommendations for *Reforming Health Care Workforce Regulation*, with their emphasis on removing non-competence-based discrimination, will find support. Public majorities on licensing boards are crucial to small professions. The status quo stacks the deck against them.

"We must weigh the public good, the importance of public confidence, and the benefits of hastening this inevitable reform government-wide.

"The Board of Podiatric Medicine treasures the warm relationship we have with licensees. Now we need to work towards a warmer relationship with consumers and get the guilds out of government."